

# Occupier Perspective Obligations of Occupation 2013 Asia Pacific



**6 March 2013**

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We are pleased to release the 2013 Asia Pacific edition of our 'Obligations of Occupation' report. This edition provides a summary of key cost responsibilities and obligations associated with occupying and purchasing office space in 14 markets across the region.

'Obligations of Occupation' is a reference guide to local market conventions as to how key cost responsibilities are shared between owners and occupiers. It is designed as a useful reference document for comparing practices and liabilities across countries and markets.

The report covers:

- Main aspects of lease structures
- Landlord and tenant responsibilities
- Occupier transaction costs
- Taxation liabilities of tenants related to occupancy
- Ownership restrictions
- Purchaser transaction costs
- Key changes in market practice since last year

This guide should be used alongside our yearly 'Global Occupancy Costs - Offices' publication, our occupier flagship report which looks at total occupancy costs per workstation across 126 business districts in 49 countries worldwide.

# Report coverage



Source: DTZ Research, ESRI

## Definitions

This document is not intended as a comprehensive guide and in a number of cases the information provided should be treated as illustrative of the typical way in which the individual markets work rather than being applicable to all situations.

**1B\*:** In some markets, buildings are delivered in 'bare shell' conditions meaning that only service and common areas are fully finished by the landlord. In others, landlords provide finished ceilings and/or flooring as standard delivery conditions. These have cost implications to the occupier of the space.

**Shell and core:** Bare concrete shell (slab to slab), with service capped off at the core. The tenant carries out the interior fit-out of everything within the demised area, delivering floors, ceilings, interior A/C and all M&E work

**Warm shell:** Office building with a minimally finished interior, a heating & cooling system, drop ceilings, plumbing and restrooms, and interior lighting. No partitioning or raised floors

**Category A:** Raised floors and ceilings only. All lighting and A/C delivered for an open plan space. No partitioning provided. The tenant does the rest

**Fully Fitted:** Turnkey fit-out provided by the landlord. The office building is ready for the tenant to move in

**1B1\*:** In most cases, fit-out costs are paid by tenants. However, there are increasing instances of landlords paying for some of the fit-out costs incurred by tenants.

**1C1\*:** Typical amount of rent used to secure the lease (depending on covenant strength).

**1Di\*:** Typical rent-free months a tenant can obtain from a landlord upon signing a new lease term. The rent-free period takes place at the beginning of a tenancy and throughout its duration no rent is payable by the tenant. It is given either as an inducement to the tenant to enter into a new lease or as recognition of the fact that until the tenant's fit-out work is complete, it cannot use the premises for its business.

**1Dii\*:** Other incentives may include free parking space, cash contributions to tenants' fit-out costs etc.

**1F\*:** Where the tenant's right to renew the lease after expiration is protected by legislation and unless notice is served (by either party), current occupancy terms carry over.

**1Ji\*:** GLA (Gross Lettable Area) is the total area occupied and payable by the tenant. There is no standard global definition of lettable area. Whilst some countries use measurement standards based on BOMA, other countries apply the RICS Code of Measuring Practice.

**1Jiii\*:** Payments regularly included in the rental charge.

**1Jiv\*:** Regular payments to the landlord not included in the rental charge.

**2\*:** Responsibilities of the landlord and tenant for extraordinary costs (other than those agreed to be paid such as rent, service charge, insurance etc).

**2A\*:** Repairs necessary to the structure of the building itself.

**2B\*:** Repairs to tenant's premises (common areas not included) and often as a result of wear and tear and occupation.

**2C\*:** Maintenance of the space that the tenant has leased (not maintenance of common areas paid through the service charge).

**3C\*:** In some countries it is not a requirement to have leases drafted by lawyers; however, many international clients normally seek legal advice.

	1. Lease structure								
	A Standard lease document	B Standard space delivery conditions*	B1 Standard fit-out costs per sq ft or sq m (local currency)*	C Rent payable every	C1 Rent guarantee period*	D Incentives		E Typical lease length	F Statutory right to renew the lease*
						i Typical rent-free period*	ii Other incentives*		
Australia	No	Category A	AUD 700+ per sq m	Month	6-12 months gross rent (includes outgoings)	Up to 18 months. Varies significantly between local markets and may be longer for longer leases	Varies between local markets and depends on rent free period. Possible capital contribution from landlord and/or landlord undertakes fit-out	5-10 years	No
China	Yes, in some cities	Category A	RMB 1,000-2,000 per sq m (excluding furniture and IT)	Month or quarter	3 months rent plus service charge	0-3 months	Turnkey services, paid fit-out, upfront cash contribution, hold-over period, first right of refusal, etc.	3 years. Up to 5 years for large space occupiers	No
Hong Kong	No	Category A	HKD 800 per sq ft	Month	3-5 months rent plus utility charge	1-3 months, may be longer for longer leases	None	3-6 years	No
India	No	Shell and core or Warm shell	INR 2,000 per sq ft (excluding taxes where applicable, IT costs, architects' fees etc.)	Month	6-15 months rent plus tax	1-3 months for warm shell (for doing fit-outs), 0-15 days for furnished space; also varies depending on submarket and lease agreement	First right of refusal and reduction of rental deposit	3+3+3 years or 5+5+5 years (SEZ)	No, but negotiable where lessee has fixed renewal rights
Indonesia	No	Shell and core	IDR 2,000,000-3,500,000 per sq m, depending on quality of finishes	Quarter	3 months rent plus service charge	1-2 months, depending on the size of the premises	None	2-3 years	No
Japan	No	Category A	JPY 50,000 per sq m from standard space delivery condition to a turnkey fit-out (including cabling, excluding furniture and server room)	Month	12 months, often negotiable	3-6 months, may be longer for longer leases	Stepped rent, expansion rights, reduced deposit	2 years (standard lease) / 3-5 years (fixed term lease)	Yes for standard lease, no for fixed term lease
Malaysia	No	Category A	RM 150 per sq ft	Month	3 months rent	1 month, may be longer for larger premises	None	3 years	No
New Zealand	Yes although there are many specific leases drafted by individual lawyers as well	Warm shell	NZD 900-1,200 per sq m	Month	3-6 months gross rent (includes outgoings). Usually not required in new buildings	1-2 months per year of lease	Fit-out contribution typically included in the rent-free	6-9 years. Up to 12 years for large space occupiers	No
Philippines	No	Warm shell	PHP 15,000-30,000 per sq m	Month	3 months rent	1-3 months	None	3-5 years	No
Singapore	No	Warm shell (Category A for premium offices)	SGD 65-120 per sq ft, depending on quality of finishes	Month or quarter	3 months rent	1-3 months, depending on the size of the premises	Typically none	3 years. Up to 6 years for large space occupiers	No
South Korea	No	Category A	KRW 300,000-500,000 per sq m (NLA)	Month	10 months rent	1-2 months	Fit-out costs and moving costs are negotiable	2-3 years	No
Taiwan	No	Category A	TWD 1,265 per sq ft	Month	3 months rent <sup>1</sup>	1 month (negotiable)	None	2-3 years	No
Thailand	No	Warm shell	THB 15,000-25,000 per sq m	Month	3 months rent	1 month (typically for fit-out), may be longer for larger premises	One car park space per 100-200 sq m of area leased	3 years	No
Vietnam	No	Warm shell	USD 250-500 per sq m <sup>1</sup>	Quarter	3-6 months rent plus service charge	1-6 months <sup>1</sup>	Negotiable (motorbike/car parking, structured rental payments)	2-3 years	No

<sup>1</sup>See comments on page 8

	1. Lease structure								
	G Frequency of rent reviews	H Frequency and basis of indexation of rent	I Lease disposal			J Rents			
			i Subletting/ assignment rights	ii Early termination rights	iii Reinstatement to original condition on termination	i Basis of measurement*	ii Unit of measurement	iii Inclusions*	iv Exclusions*
Australia	By negotiation	Yearly, based on fixed percentage (4-5%)	Yes	By negotiation via break clause only	Yes. Fair wear & tear excepted with negotiable terms on lease expiry	Net lettable area	AUD per sq m per year	Gross rents include outgoings. Net rents are exclusive of outgoings	Structural maintenance of building or capital upgrades to building which is covered by landlord, car parking and utilities
China	2-3 years	None. Rental level change based on market fluctuation	Subject to landlord's consent	Via break clause only (negotiable)	Yes. Fair wear & tear excepted	Gross floor area	RMB per sq m per month or RMB per sq m per day. Varies by location	None	Service charge, utilities, season car park
Hong Kong	Usually every 3 years	None. Rental level change based on market fluctuation	Subject to landlord's consent	Via break clause only (however, the right is rarely obtained)	Yes. Fair wear & tear excepted	Gross or net floor area	HKD per sq ft per month	None	Service charge, utilities, season car park
India	Typically every 3 years, sometimes every year depending on the lease agreement	None. Rental level change based on market fluctuation	Yes to group companies and affiliates on prior intimation to landlord; for any third party, subletting subject to landlord's consent and related regulations	Allowed only after a pre-agreed lock-in period of usually 2-3 years (depending on lease agreement) with 3-6 months notice or rent in lieu thereof	Full reinstatement only if specified in the lease agreement - not widely insisted. Fair wear & tear excepted	Super built-up / gross area	INR per sq ft per month	None	Statutory government levies or charges, common area maintenance charges, utilities, additional car park charges
Indonesia	Every 2 years	None. Rental level change based on market fluctuation	Subject to landlord's consent	Via break clause only	Yes. Fair wear & tear excepted	Semi-gross area	USD per sq m per month or IDR per sq m per month	None	Service charge, season car park
Japan	Usually on auto-renewal dates or anytime during the term for a standard lease. No rent review during the term for a fixed term lease	None. Rental level change based on market fluctuation	Subletting subject to landlord's consent / assignment not possible	Subject to 6 months notice under standard lease / none under fixed term lease	Yes	Net lettable area	JPY per tsubo per month (1 tsubo = 3.3 sq m or 35.6 sq ft)	Service charge in several cases. Normal office hour air-conditioning	Utilities, season car park
Malaysia	None	None. Rental level change based on market fluctuation	Subject to landlord's consent	Via break clause only	Yes. Fair wear & tear excepted	Gross internal area	RM per sq ft per month	Service charge	Season car park
New Zealand	2-3 years	Generally every 2-3 years. Market rent reviews are most common, although reviews based on CPI are becoming more common	Yes, subject to landlord's consent	Via break clause only	Yes. Fair wear & tear excepted with negotiable terms on lease expiry	Net usable area plus % share of common areas	NZD per sq m per year	Service charge in Wellington where gross rents are predominant. In Auckland and Christchurch, typically net rents plus operating expenses are quoted	Maintenance of common areas which is covered by landlord
Philippines	Yearly	None. Rental level change based on market fluctuation	Subject to landlord's consent	Via break clause only	Yes. Fair wear & tear excepted	Net lettable area	PHP per sq m per month	None	Service charge, season car park
Singapore	None, except via rent review clause	None. Rental level change based on market fluctuation	Subject to landlord's consent	Via break clause only (however, the right is rarely obtained)	Yes. Fair wear & tear excepted	Net lettable area	SGD per sq ft per month	Service charge	Season car park, utilities
South Korea	Yearly	Yearly, based on either CPI or fixed percentage	Subject to landlord's consent (usually not allowed)	By negotiation	Yes. Fair wear & tear excepted	Gross floor area	KRW per pyung per month (1 pyung = 3.3 sq m or 35.6 sq ft)	None	Service charge, season car park
Taiwan	None	Yearly (2-3% after the second year)	Subject to landlord's consent	Via break clause only	Yes. Fair wear & tear excepted	Gross floor area	TWD per ping per month (1 ping = 3.3 sq m or 35.6 sq ft)	None	Utilities, service charge, season car park
Thailand	None	None. Rental level change based on market fluctuation	Subject to landlord's consent (usually not allowed)	Not market practice	Yes. Fair wear & tear excepted	Gross lettable area	THB per sq m per month	Service charge	Season car park
Vietnam	None	None. Rental level change based on market fluctuation	Limited	By negotiation, or via break clause	Yes. Fair wear & tear excepted	Gross lettable or net floor area. Gross lettable usually quoted for grade A space and net floor area for lower grade space	USD per sq m per month (note: rents converted and paid in VND)	None	Service charge, season car park

	2. Landlord and tenant responsibilities*				3. Occupier transaction costs			
	A Structural repairs*	B Internal repairs*	C Maintenance of tenant area*	D Landlord insures and recovers cost from tenant	A Transfer tax	B Agent's fees	B1 Agent's fees - responsible party (tenant/landlord)	C Legal fees*
Australia	Landlord	Tenant	Tenant	Yes within recoverable outgoings	None	11-16% of annual rent (depending on the length of the lease)	Landlords pay landlord's agency fees; Tenants pay tenant advisors/representative's fees	By agreement
China	Landlord	Tenant	Tenant	No	0.03-2% (normally shared equally between landlord and tenant)	8-17% of annual rent	Tier I cities: landlord; case by case in Tier II & III cities	By agreement
Hong Kong	Landlord	Tenant	Tenant	No	1% plus HKD 5 for 3-6 year lease (normally shared equally between landlord and tenant)	8-17% of annual rent	Typically landlord, but varies case by case	By agreement
India	Landlord	Tenant	Tenant	Landlord insures the building and services, while tenant is expected to purchase insurance for fit-outs carried out inside the leased space	Stamp duty ranging from 1-4% of average annual rent and/or rent security deposit (depending on state)	16.7% of annual rent (equivalent to 2 months rent, with 1 month's rent being charged to both parties)	Shared by landlord and tenant	By agreement / respective party
Indonesia	Landlord	Tenant	Tenant	Yes	Stamp duty (IDR 6,000 for leases with total lease value of IDR 1 million and above)	3-5% of annual rent	Landlord	By agreement
Japan	Landlord	Tenant	Tenant	Landlord insures the building, while tenant is expected to purchase fire insurance for leased space	None	8% of annual rent (equivalent to 1 month's rent)	Tenant	By agreement
Malaysia	Landlord	Tenant	Tenant	Yes	Annual rent less RM 2,400, divided by 250 and multiplied by factor of 1 to 4 depending on number of years of tenancy	Typically 8% of annual rent (equivalent to 1 month's rent)	Landlord	25% of 1 month's rent for the first RM 120,000 annual rent, 10% of 1 month's rent for the next tier up to RM 1.08 million, negotiable for excess
New Zealand	Landlord	Tenant	Depends on the terms and conditions of the lease agreement (usually tenant)	Yes with net lease. No with gross lease	None	Typically 12-19% of annual rent (depending on the length of the lease)	Typically landlord	By agreement
Philippines	Landlord	Tenant	Tenant	Yes	PHP 3 for the first PHP 2,000, and PHP 1 for every PHP 1,000 in excess of the first PHP 2,000 for each year of the lease term	12.5% of annual rent for 3-year lease. 15-17% of annual rent for 5-year lease	Landlord pays for new leases and tenant for lease renewals. Amount is negotiable but may be a % of savings from the renegotiated rate	By agreement
Singapore	Landlord	Tenant	Tenant	Yes	Stamp duty (0.4% for leases under 1 year, 0.8% for leases between 1 to 3 years, 1.6% for leases more than 3 years)	Typically 8% of annual rent (equivalent to 1 month's rent)	Typically landlord pays for new leases and tenant for lease renewals	By agreement
South Korea	Landlord	Tenant	Tenant	Yes	None	8% of annual rent (equivalent to 1 month's rent); in case of lease renewal, 4% of annual rent	Typically landlord and tenant pay their respective agent's fees, but in the current market landlords are willing to pay for the tenant's broker	By agreement
Taiwan	Landlord	Tenant	Tenant	No	None	Not more than 12.5% of annual rent	Both landlord and tenant	By agreement
Thailand	Landlord	Tenant	Tenant	Yes. In some cases, landlord insures the building while tenant insures the leased space	0.1% stamp duty on total lease. For leases which exceed 3 years, 1% registration fee on total lease or assessed rental value (whichever is higher). Payments negotiable between landlord and tenant	Typically 8% of annual rent (equivalent to 1 month's rent)	Landlord	By agreement
Vietnam	Landlord	Tenant	Tenant	Yes	None	Typically 8% of annual rent (equivalent to 1 month's rent)	Negotiable - in the current market more often the landlord	By agreement

	4. Ongoing taxation liabilities of tenant related to occupancy		5. Ownership restrictions	6. Purchaser transaction costs				
	A Local tax (% of annual rent)	B VAT (% of annual rent)	A Restriction on ownership of property by foreigners	A Transfer tax	B VAT	C Agent's fees	D Legal fees	E VAT on transaction fees
Australia	Land tax (varies by lease value) and council rates (varies by councils)	10% GST (subject to refund from Taxation Office)	Yes, a number of restrictions can apply for buildings over AUD 50m and Heritage buildings over AUD 5m	Varies from state to state, with highest rate in ACT (6.75%) and lowest in Tasmania (4%)	0% on properties sold as a going concern. Otherwise 10% GST	1-2%, subject to negotiation for large transactions	By agreement	10% GST
China	No	5% in some cities. Where VAT is charged, it is usually excluded from the rent	No, if the foreign national follows the correct procedures and sets up a Wholly-Owned Foreign Enterprise	0.03-0.1% (varies by location)	None on first-hand transactions. 0.5% for secondhand transactions within 0-3 yrs, 0.25% for 3-5 yrs, and no VAT for over 5 yrs	1-1.5%	By agreement	No
Hong Kong	5%	No	No	0-4.25% (5-20% Special Stamp Duty will be charged for retransaction within 2 years)	No	1% (negotiable)	By agreement	No
India	Property Tax (varies by location) and is paid by either landlord or tenant depending on micromarket and terms of agreement	10.3% (Service Tax)	Yes. Multinational companies can own property for self use. Developers and investors are also entitled to ownership subject to certain FDI guidelines and state specific regulations	3-15% (depending on state)	No	1-4% (depending on city and transaction size)	By agreement / respective party	10.3% (Service Tax)
Indonesia	No	10% (applicable to both base rent and service charge)	Yes. Foreign nationals only allowed to occupy premises on a leasing basis <sup>1</sup>	5% of total land & taxable building value or 5% of total transaction value, whichever is higher	10%	2-3%	By agreement	10%
Japan	No	5% (Consumption Tax), not applicable to lease of land	No	4% of assessed value of fixed assets (Real Estate Acquisition Tax) and 2% of assessed value of fixed assets (Registration and License Tax)	5% (Consumption Tax) not applicable to sale of land	Up to 3% + JPY 60,000	By agreement	5% (Consumption Tax)
Malaysia	No	6% (Service Tax)	Generally no except for agriculture properties and residential properties less than RM 500,000 in price	1% on first RM 100,000, 2% on next RM 400,000 and 3% thereafter	No	2.75% on first RM 500,000 and 2% thereafter	1% on first RM 150,000, 0.7% on next RM 850,000, 0.6% on next RM 2 million, 0.5% on next RM 2 million and 0.4% on next RM 2.5 million	6%
New Zealand	No	15% GST (subject to refund from Taxation Office)	Yes. Approval is required for 25% or more ownership or controlling interest in: business or non-land assets worth more than NZD 100 million; sensitive land; land with unimproved value of more than NZD 10 million; land on most offshore islands	Less than NZD 100 (Registration Fee)	0% on properties sold as going concern. Otherwise 15% (if GST is levied provided both the vendor and purchaser are registered for GST)	1.5-3.5%	By agreement	15%
Philippines	No	12%	Yes. Various restrictions apply and typically restrict ownership to 40% or less with the majority held by a Filipina National(s).	1.5% or PHP 15 for every PHP 1,000 of consideration or fair market value, whichever is higher	12%	3-5%	By agreement	12%
Singapore	No	7%	No	1% on first SGD 180,000, 2% on next SGD 180,000 and 3% thereafter	7%	1%	By agreement	7%
South Korea	No	10%	No	4.6% (Acquisition Tax)	10%	1-2% (subject to negotiation for large transactions)	By agreement	10%
Taiwan	No	5%	Yes. Approval is required for properties for self-use, investment and public welfare	6% (Deed Tax) and 0.1% (Stamp Duty Tax)	No	Not more than 6% (purchaser and vendor pay 1-2% and 3-4% respectively)	By agreement	No
Thailand	No	7% (applicable on service charge)	Yes. Only foreign entities with Board of Investment (BOI) privileges allowed to purchase land in designated BOI zones	2% of assessed value and 3.3% specific business tax (usually paid by the vendor)	No	1-3%	No	No
Vietnam	No	10%	Yes. Foreign nationals allowed to lease up to 70 years, subject to approval	0.5% (registration fee)	10%	1-3%	By agreement	10%

<sup>1</sup>See comments on page 8

## Comments

This section highlights changes in market practice since last year.

<b>1B1. Lease Structure - Standard fit-out costs per sq ft or sq m (local currency)</b>		
<b>Country</b>	<b>2012</b>	<b>2013</b>
Vietnam	USD 300-500 per sq m	USD 250-500 per sq m
<b>1C1. Lease Structure - Rent guarantee period</b>		
<b>Country</b>	<b>2012</b>	<b>2013</b>
Taiwan	3-6 months rent	3 months rent
<b>1Di. Lease Structure - Typical rent-free period</b>		
<b>Country</b>	<b>2012</b>	<b>2013</b>
Vietnam	1-3 months	1-6 months
<b>5A. Ownership restrictions - Restriction on ownership of property by foreigners</b>		
<b>Country</b>	<b>2012</b>	<b>2013</b>
Indonesia	Yes. Foreign nationals only entitled to own with right-to-use status	Yes. Foreign nationals only allowed to occupy premises on a leasing basis



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